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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

**IN RE: BARD IVC FILTERS
 PRODUCTS LIABILITY LITIGATION**

No. MD-15-02641-PHX-DGC

**PLAINTIFFS' UNOPPOSED
 MOTION TO STRIKE AND RE-
 FILE EXHIBITS IN SUPPORT OF
 PLAINTIFFS' OPPOSITION TO
 BARD'S MOTION FOR A
 PROTECTIVE ORDER
 REGARDING REPORT OF JOHN
 LEHMANN, M.D.**

Plaintiffs, through counsel undersigned, respectfully request that the Court strike the sealed (Docs. 380 and 386) and unsealed exhibits (Docs. 379-1 and 385-1) filed in support of Plaintiffs' Response in Opposition to the Bard Defendants' Motion for a Protective Order (Doc. 379) on December 18, 2015. Plaintiffs further request leave to re-file the same documents with the corrections noted below. Bard does not oppose this Motion.

I. BACKGROUND

On December 18, 2015, the Court granted Plaintiffs' Unopposed Motion for Leave to file certain exhibits under seal. Doc. 374. Pursuant to that Order, Plaintiffs filed certain exhibits under seal (Docs. 380 and 386). After the filing, it was brought to Plaintiffs' attention that two documents attached to the public (unsealed) version of the

exhibits were, in fact, confidential documents produced pursuant to the Protective Order. Counsel for Plaintiffs had mistakenly assumed that, because the subject exhibits (Exs. 1 and 18) bore a *Phillips* trial exhibit mark and because the *Phillips* trial exhibits were part of the public record, it was not necessary to add Exhibits 1 and 18 to the sealed list of documents. However, it appears that Exhibits 1 and 18 were not ever admitted into evidence during the *Phillips* trial and, therefore, should be accorded the same protective order and confidentiality treatment as the other exhibits that were filed under seal.

Accordingly, Plaintiffs respectfully request that the Court order Plaintiffs' original Exhibit sets (Doc. Nos. 379-1, 380, 385-1 and 386) stricken and authorize Plaintiffs to re-file their public exhibits (excluding Exhibits 1 and 18) and enter a revised Order directing the Clerk to seal Exhibits 1, 4, 5, 6, 8, 12, 13, 18, 20 and 21. A proposed form of order is attached.

Counsel undersigned apologizes to the Court, its staff and the parties for any inconvenience.

RESPECTFULLY SUBMITTED this 29th day of December, 2015.

GALLAGHER & KENNEDY, P.A.

By: /s/ Shannon L. Clark

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th of December, 2015, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Nancy Jo Koenes

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